BORA LASKIN LAW LIBRARY
3 1761 10084558 5

ENTERTAINMENT LAW

GORDON I. KIRKE

Volume I : Entertainment Law

1984 - 1985

With the Assistance of: CARY KOCHBERG

FACULTY OF LAW

UNIVERSITY OF TORONTO

LAW LIBRARY

FEB 21 1985

FACULTY OF LAW
UNIVERSITY OF TORONTO

FACULTY OF LAW LIBRARY
UNIVERSITY OF TORONTO

ENTERTAINMENT LAW

GORDON I. KIRKE

Volume I : Entertainment Law

1984 - 1985

With the Assistance of: CARY KOCHBERG

FACULTY OF LAW

UNIVERSITY OF TORONTO

Digitized by the Internet Archive
in 2019 with funding from
University of Toronto

https://archive.org/details/entertainmentlaw00kirk

ACKNOWLEDGEMENT

I would like to express my sincerest appreciation to Cary Kochberg for his assistance in assembling, preparing and editing these materials.

Cary and I are indebted to Daniel Lyon, Steven Levitan, Michael Levine, Herbert H. Soloway, Candy Schaffel and John Barnes for their help in developing this course.

GORDON I. KIRKE

February, 1985

INDEX TO ENTERTAINMENT LAW MATERIALS

PAGE

1. COPYRIGHT: 1

(A) Excerpts from the Copyright Act 1

(B) Entitlement to Protection 18

Ludlow Music Inc. v. Canint Music Corp.
Francis, Day and Hunter v. Feldman and Co.
Oscar Trademark.

(C) Originality 27

University of London Press v. University Tutorial Press.
Walter v. Lane.
Robertson v. Lewis.

(D) Protection of Various "Works" 36

(1) Titles and Names 36

Francis Day and Hunter v. 20th Century Fox.

(2) Protection of Titles under the Tort of Passing-Off 43

W. H. Allen v. Brown.

(3) Compilation 46

Ladbroke v. William Hill.
Bulman Group v. "One Write" Accounting.

			Page
(4)	(1)	Dramatic Work	46
		Kantel v. Grant and Auld.	
	(2)	Protection of Dramatic Ideas Under Breach of Confidence	56
		Fraser v. Thames Television	
(5)		Musical Works	62
		Redwood v. Chappel	
(6)		Artistic Works	66
		L.B. Plastics v. Swish Products	
(7)		Photographs	70
(8)		Cinematographic Works	70
		Canadian Admiral v. Rediffusion.	
(9)		Mechanical Contrivances	83
		Compo v. Blue Crest. Hyrcyk v. Smichvre	
(10)		Non-Protected Works	94
(E)		Authorship and Ownership	95
(1)		General Principles	95
		Donohue v. Allied Newspapers Kenrick v. Lawrence.	
(2)		Author of a Photograph	95
		Global v. Galaxy.	

Page

(3) Joint Authors and Collective Works 104

(i) Songs 104

Redwood Music v. Feldman.

(ii) Reversionary Rights 106

Chappel v. Redwood.

(iii) Author of a Compilation 110

(4) Commissioned Works 110

(5) Contract of Service 111

Beloff v. Pressdram.

(F) Assignments and Licences 118

In Re Dickens.
British Actions Film Company v. Glover.
Jonathan Cape v. Consolidated Press.
Messager v. British Broadcasting Corp.

(G) Term of Copyright 134

(H) Registration of Copyright 136

(I) Infringement of Copyright 137

(1) Reproduction 137

Ladbroke v. William Hill.
Francis Day and Hunter v. Brown.
Ravenscroft v. Herbert.

Page

(2) Performance in Public and Communication by Radio 156

Canadian Admiral v. Rediffusion.
C.A.P.A.C. v. C.T.V.

(3) Infringement of Mechanical Contrivance Rights 170

Warner Bros. and Seven Arts Inc.
v. C.E.S.M.

(4) Authorizing an Infringement 174

Muzak v. C.A.P.A.C.

(5) Indirect Infringement - Importing 178

C.B.S. (U.K.) Ltd. v. Charmdale.
McClelland and Stewart v. Coles

(J) The Author's Moral Rights 189

Snow v. Eaton Centre Ltd.

(K) Statutory Licences 190

Ludlow Music v. Canint Music Corp.
A.T.V. Music v. Rogers Radio Broadcasting.

(L) Defences to Infringement 198

Hubbard v. Vosper.
Hawkes v. Paramount.

(M) Practical Aspects of Acquisition of Rights--
Excerpts from Various Agreements 206

(1) Literary Option Agreement. 206
(2) Songwriters Agreement. 213

Page

(3) Music Publishing Agreement. 217
(4) Recording Agreement. 220
(5) Motion Picture Distribution Agreement. 237

2. APPROPRIATION OF PERSONALITY 253

Krouse v. Chrysler Canada.
Athans v. Canadian Adventure Camps.
Personal Endorsement Contract.

3. FINANCING 276

(A) Motion Pictures and Theater Project Certification 276

Regulations 1104 and 1100(21).
Interpretation Bulletin IT-441.
The C.F.V.C.O. Tax Certification Guidelines.
The Canada-France Co-Production Treaty.

(B) Canadian Content for Television 308

The Broadcasting Act.
Public Notice 1984-110.
The new "Canadian Content"
Guidelines for T.V.

(C) The Canadian Film Development Corp. 318

Policies on the Management of the Broadcast
Development Fund.

(D) Pre-Sale Financing 327

"Developing Methods for Financing Motion
Pictures and T.V. Productions in Canada:" -
Steven S. Levitan.

Page

(E) The Securities Act 337

Re. Mosport Film Productions Ltd.

(F) International Co-Production Agreement 363

(G) Financing Commercial Theatre 376

Limited Partnership Agreement.

(H) Provincial Programs 384

4. PERSONAL SERVICE CONTRACTS 401

(A) The A.C.T.R.A. Performer/ Independent Production Agreement. "Star Performer" Contract. 401

(B) Tax Considerations for Performers and Other Artists 422

Interpretation Bulletin IT-311.
Interpretation Bulletin IT-312.
Interpretation Bulletin IT-257.

(C) The Personal Service Corporation 426

Rauol Engel v. M.N.R.